

## **DEPARTMENT OF DEFENSE**

### **Department of the Navy**

#### **Record of Decision for Naval Sea Systems Command Naval Undersea Warfare Center Keyport Range Complex Extension**

**AGENCY:** Department of the Navy, DoD

**ACTION:** Record of Decision

**SUMMARY:** The Department of the Navy (Navy), after carefully weighing the strategic, operational and environmental consequences of the Proposed Action, announces its decision to extend the operational areas of the Naval Sea Systems Command (NAVSEA) Naval Undersea Warfare Center (NUWC) Division, Keyport Range Complex, and increase the number of tests and days of testing that will occur within some of these operational areas. As described in the NAVSEA NUWC Division, Keyport Range Complex Extension Final Environmental Impact Statement/Overseas Environmental Impact Statement (EIS/OEIS), the Proposed Action is needed because the existing range complex is incapable of satisfying the existing and evolving operational capabilities and test requirements of next-generation manned and unmanned vehicles. Extending the range complex operating areas and increasing the number of days of testing and/or activities will enable the Navy to better support future vehicle test requirements, including current and evolving manned and unmanned vehicle program requirements in multiple marine environments.

The NAVSEA NUWC Division, Keyport Range Complex is comprised of three geographically distinct range sites. These three sites each have unique and essential characteristics necessary to support current and evolving vehicle program requirements, but the proposed geographic expansions of the Range Complex are required to provide new marine environment required by the Navy's manned and unmanned vehicle program. The set of alternatives for one range site is independent of the set of alternatives for another range site. Therefore, the overall Preferred Alternative is a combination of the preferred alternatives identified for each range site.

Under Alternative 1 for the Keyport Range Site, range boundaries will be extended to the north, east and south, increasing the range area from 1.5 square nautical miles ( $\text{nm}^2$ ) to 3.2  $\text{nm}^2$ . To support existing and evolving requirements, the numbers and types of activities will increase slightly, while the average annual days of use will increase from 55 days to 60 days.

Under Alternative 2 for the Dabob Bay Range Complex (DBRC) Site, the southern boundary will be extended by approximately 10 nm and the northern boundary extended to approximately 1 nm south of the Hood Canal Bridge (Highway 104). DBRC Site Alternative 2 will increase the operating area at the DBRC Site from approximately 32.7  $\text{nm}^2$  to approximately 45.7  $\text{nm}^2$ . To support existing and evolving requirements, the numbers and types of activities will increase slightly, while the average annual days of use will not change.

Under Alternative 2 for the Quinault Underwater Tracking Range (QUTR) Site, the range will be extended to coincide with the boundaries of Military Warning Area W-237A with a surf zone established at Pacific Beach. The total range area will increase from approximately 48.3  $\text{nm}^2$  to approximately 1,839.8  $\text{nm}^2$ . To support existing and evolving requirements, the numbers and types of activities will increase. The average annual number of days of use for offshore activities will increase from 14 days/year to 16 days/year. The average annual days of use for surf-zone activities will increase from negligible activity to 30 days/year.

In the NAVSEA NUWC Division, Keyport Range Complex Extension Final EIS/OEIS, the Navy evaluated potential environmental effects associated with implementation of the Proposed Action. The environmental analysis undertaken by the Navy included formal consultations with the National Marine Fisheries Service (NMFS), a cooperating agency for the EIS/OEIS, the Olympic Coast National Marine Sanctuary (OCNMS), and the U.S. Fish and Wildlife Service (USFWS). Public awareness and participation were integral components of the EIS/OEIS process. The Navy ensured that Native American Indian Tribes and Nations, federal agencies, state agencies, local entities, other organizations and members of the general public had the opportunity to comment on the scope of the Navy's analysis included in the Draft EIS/OEIS as well as examine and consider environmental issues included in the Final EIS/OEIS. The Navy

also participated in Government-to-Government consultation with Native American Indian Tribes and Nations.

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**SUPPLEMENTARY INFORMATION:** Pursuant to Section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969, Section 4321, et seq. of Title 42, U.S. Code (U.S.C.), Council on Environmental Quality (CEQ) regulations (parts 1500-1508 of Title 40 Code of Federal Regulations (CFR)), and Department of the Navy regulations (part 775 of Title 32 CFR), the Navy announces its decision to implement the Navy's overall Preferred Alternative as a combination of preferred alternatives (Keyport Range Site Alternative 1, DBRC Site Alternative 2, and QUTR Site Alternative 2), as identified in the Final EIS/OEIS. The Navy announces its decision to extend the operational areas of the NAVSEA NUWC Division, Keyport Range Complex and increase the number of days and/or activities to accommodate the evolving mission requirements of NUWC Division, Keyport as described in the Final EIS/OEIS. A detailed description of the Proposed Action is provided in Chapter 2 of the Final EIS/OEIS. This decision will enable NUWC Division, Keyport to fulfill its mission of providing test and evaluation services and expertise to support the Navy's manned and unmanned undersea vehicle program. In reaching its decision, the Navy considered applicable Executive Orders, including EO 12114, *Environmental Effects Abroad of Major Federal Actions*, the requirements of EO 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations*, and EO 13045, *Protection of Children from Environmental Health Risks and Safety Risks*.

**BACKGROUND AND ISSUES:** NAVSEA is responsible for engineering, building, buying, and maintaining the Navy's ships and submarines and associated combat systems. NUWC Division, Keyport is a warfare center division under NUWC Headquarters and NAVSEA; it provides Fleet readiness support for submarines, surface ships, torpedoes, mines, land attack systems, and Fleet training, in-service engineering, maintenance, Fleet readiness, and support for

undersea warfare systems, including research, development, test and evaluation (RDT&E) of torpedoes, unmanned vehicles, sensors, targets, countermeasure systems, and acoustic systems.

NUWC Division, Keyport has historically provided facilities and capabilities to support testing of torpedoes, unmanned vehicles, sensors, targets, countermeasure systems, acoustic systems, submarine readiness, diver training, and similar activities that are critical to the success of undersea warfare. Range support requirements for such activities include testing, training, and evaluation of system capabilities such as guidance, control, and sensor accuracy in multiple marine environments (e.g., differing depths, salinity levels, sea states) and in surrogate and simulated war-fighting environments.

Technological advancements in the materials, instrumentation, guidance systems, and tactical capabilities of manned and unmanned vehicles continue to evolve in parallel with emerging national security priorities and threat assessments. In response, range requirements and vehicle test protocols must also evolve to provide effective program support for such changes. The infrastructure to support these activities includes a variety of shore-based facilities and in-water range sites. To be effective, the range complex must offer the necessary combination of physical characteristics (e.g., sufficient operating area for vehicle maneuverability and monitoring, variations in water depth, shore access, substrate diversity, dynamic sound, and buoyancy characteristics) to satisfy the emerging test and evaluation criteria for each type of activity. Examples of emerging requirements in undersea vehicle testing include: 1) an increased focus on littoral threat environments such as shorelines, bays, and harbors; 2) a greater ability to differentiate between multiple, widely separated targets of different types (including false targets); 3) deeper water environments up to 4,500 feet (ft) ); 4) increased opportunities for larger, combined exercise test/training scenarios involving Fleet assets; and 5) greater availability of real-world testing in actual surf-zone conditions instead of simulated surf conditions.

The activities that NUWC Division, Keyport conducts are uniquely different from Fleet training activities. Unlike Fleet training activities, which are interdependent on one another as part of the training event or within the unit's schedule, RDT&E scenarios are usually focused on a single

unit or system under a controlled environment, taking advantage of the unique environmental conditions that NUWC Division, Keyport provides. Accordingly, NUWC Division, Keyport's range operating procedures were developed such that they ensure the practicality of implementation, safety of personnel, environmental compliance, and military readiness.

The three range sites comprising the existing NAVSEA NUWC Division, Keyport Range Complex are located in, or offshore of, the state of Washington. The Keyport Range Site is located within Kitsap County and includes portions of Liberty Bay and Port Orchard Reach. The DBRC Site is located in Hood Canal and Dabob Bay, within Jefferson and Kitsap counties. The QUTR Site is located in the Pacific Ocean off the coast of Jefferson and Grays Harbor Counties, Washington.

**Purpose and Need:** The purpose of the Proposed Action is to enable NUWC Division, Keyport to continue fulfilling its mission of providing test and evaluation services and expertise to support the Navy's evolving manned and unmanned undersea vehicle program. NUWC Division, Keyport also provides facilities and capabilities to support testing of torpedoes, unmanned vehicles, submarine readiness, diver training, and similar activities that are critical to the success of undersea warfare. Range support requirements for such activities include testing, training, and evaluation of system capabilities such as guidance, control, and sensor accuracy in multiple marine environments and in surrogate and simulated war-fighting environments. The NUWC Division, Keyport Range Complex includes the Navy's only cold water instrumented Major Range and Test Facility Base (MRTFB) site.

Because of the current range boundaries, NUWC Division, Keyport is incapable of meeting its full technical mission. The operational endurance and sensor capabilities of test vehicles are expected to continue to expand, and the Navy needs an expanded test range capability to match the current and projected operational and test requirements.

The Navy requires a range complex with assets that provide a broader diversity of sea state conditions, bottom type, water depth, and increased room to maneuver and combine activities than are currently available within existing boundaries of the NUWC Division, Keyport Range Complex. The Proposed Action is needed because the existing range complex is incapable of

satisfying the existing and evolving operational capabilities and test requirements of next-generation manned and unmanned vehicles. Implementing the Proposed Action will enable the Navy to better support current and future undersea technology development and in-service testing while remaining within close proximity to NUWC Division, Keyport facilities and Pacific Fleet assets.

**Public Involvement:** The Navy initiated a mutual exchange of information through early and open communications with interested stakeholders during the development of the Draft EIS/OEIS. Official notification of the Navy proposal began with the publication of the Notice of Intent (NOI) on September 11, 2003, in the *Federal Register* (68 Fed. Reg. 53599). Press releases announcing the NOI publication were sent to newspapers in areas of Washington State that could be potentially affected by the Proposed Action. Letters outlining the Navy's Proposed Action and announcing scoping meetings were sent to Native American Indian Tribes and Nations, federal, state, and local agencies, elected officials, and various interest groups and individuals. NUWC Division, Keyport conducted Government-to-Government consultations with potentially affected Native American Indian Tribes and Nations.

The scoping period began September 11, 2003, and, in response to public requests, was extended from December 5, 2003, to January 9, 2004. Scoping meetings were held in four counties adjacent to the current and proposed sites that could potentially be affected by the Proposed Action: Keyport, Kitsap County (November 17, 2003); Belfair, Mason County (November 18, 2003); Quilcene, Jefferson County (November 19, 2003); and Hoquiam, Grays Harbor County (November 20, 2003). Advertisements describing the Proposed Action were placed in nine local newspapers one week before the scoping meetings. As part of the public outreach effort, public comment was also solicited through flyers posted in local marinas, grocery stores, and post offices. A total of 124 individuals attended the four scoping meetings and 49 individuals (including some individuals representing various groups) commented on the Proposed Action.

Notification of availability of the Draft EIS/OEIS was sent to interested individuals, agencies, and associations, Native American Indian Tribes and Nations, elected and public officials, and was published in the *Federal Register* on September 12, 2008 (73 Fed. Reg. 53002).

Additionally, the Draft EIS/OEIS was made available for public review at eleven libraries during

the public comment period of September 12, 2008, through October 27, 2008. Four public hearings were held from October 1, 2008, through October 8, 2008. The Navy received a total of 235 comments on the Draft EIS/OEIS from 33 organizations, agencies, Native American Indian Tribes and Nations, and individuals.

The Notice of Availability of the Final EIS/OEIS was published in the *Federal Register* on May 21, 2010 (75 Fed. Reg. 28612). Notification of the availability of the Final EIS/OEIS was also made through various newspapers and media outlets, and specifically to interested individuals, agencies, and associations, as well as elected and other public officials. The Final EIS/OEIS was distributed to those individuals, agencies, and associations who requested copies during the public comment period, as well as members of Congress, local officials, and Native American Tribes and Nations. Additionally, the Final EIS/OEIS was made available for general review at thirteen public libraries (the Navy added two additional libraries to the eleven to which the DEIS was distributed) and on the project website.

**Alternatives Considered:** The alternatives were developed by the Navy after careful assessment by subject-matter experts (including but not limited to units and commands that utilize the NAVSEA NUWC Division, Keyport Range Complex, Navy environmental managers and scientists) and the consideration of public comments during scoping. Based on this input, a set of criteria for use in assessing whether a possible alternative met the purpose of and need for the Proposed Action was developed by the Navy as stated below:

- Proximity to existing NUWC Division, Keyport facilities and range sites
- Variable water depths from shore to 4,500 ft (1,372 m) depth
- Surf-zone access to simulate hostile littoral threat areas
- Multiple salinity and bathymetry types to simulate in-situ physical and operational environments of selected threat areas of the world
- Locations where simulations can be provided to test collision avoidance in a safe manner
- Various range sizes suitable to test various systems
- Increased range sizes that allow for larger approach and transit distances for launch platform standoff and endurance testing

- Ability to conduct multiple test scenarios on an individual system within a variety of specialized environments located in close geographic proximity
- Realistic navigational hazards, interference, and shipping traffic

With the exception of the No Action Alternative, only alternatives that would satisfy the purpose and need were considered reasonable and carried forward for detailed evaluation in the EIS/OEIS.

- **No Action Alternative** - For proposals involving changes to ongoing activities, CEQ guidance describes “no action” as no change from management direction or level of intensity and continuing with the present course of action until the action is changed. Consequently, the No Action Alternative is a baseline against which the impacts of the Proposed Action are compared. The purpose of including a No Action Alternative in environmental impact analysis is to ensure that agencies compare the potential impacts of the proposed federal action to the known impacts of maintaining the status quo. Under the No Action Alternative for the NAVSEA NUWC Division, Keyport Range Complex, current activities would continue to be conducted on all three range sites and would continue to fit within the existing range dimensions currently established for the Range Complex. At the Keyport Range Complex, considering all cumulative effects, the No Action Alternative is the Environmentally Preferred Alternative.
- **Action Alternatives** - As the three range sites within the NAVSEA NUWC Division, Keyport Range Complex are geographically distinct, the set of alternatives for one range site is independent of the set of alternatives for another range site. Therefore, action alternatives were developed for each range site separately. For each range site, one or more action alternatives were identified in addition to the No-Action Alternative:
  - Keyport Range Site: Keyport Range Alternative 1 (Preferred Alternative) – extends range boundaries to the north, east and south, increasing the range area from 1.5 nm<sup>2</sup> to 3.2 nm<sup>2</sup>. The numbers and types of activities increases slightly, while the average annual days of use increases from 55 days to 60 days.

- DBRC Site: DBRC Alternative 1 – extends the southern boundary of this range by approximately 10 nm, thereby increasing the total operating area from approximately 32.7 nm<sup>2</sup> to approximately 44.0 nm<sup>2</sup>.

DBRC Alternative 2 (Preferred Alternative) – extends the southern boundary by approximately 10 nm and the northern boundary to approximately 1 nm south of the Hood Canal Bridge (Highway 104). DBRC Alternative 2 increases the operating area at the DBRC Site from approximately 32.7 nm<sup>2</sup> to approximately 45.7 nm<sup>2</sup>. The numbers and types of activities increases slightly, while the average annual days of use will not change under either alternative.

- QUTR Site: QUTR Alternative 1 – extends the range to coincide with the boundaries of Military Warning Area W-237A plus locates an 8.4 nm<sup>2</sup> surf zone at Kalaloch. The total range area under QUTR Alternative 1 increases from approximately 48.3 nm<sup>2</sup> to approximately 1,840.4 nm<sup>2</sup>.

QUTR Alternative 2 (Preferred Alternative) – extends the range to coincide with the boundaries of Military Warning Area W-237A plus locates a 7.8 nm<sup>2</sup> surf zone at Pacific Beach instead of at Kalaloch. The total range area under QUTR Alternative 2 would be 1,839.8 nm<sup>2</sup>.

QUTR Alternative 3 – extends the range to coincide with the boundaries of Military Warning Area W-237A plus locates a 22.6 nm<sup>2</sup> surf zone at Ocean City instead of at Kalaloch. The total range area under QUTR Alternative 3 would be 1,854.6 nm<sup>2</sup>.

The average annual number of days of use for offshore activities increases under each QUTR Site action alternative from 14 days/year to 16 days/year in the offshore area. The average annual days of use for surf-zone activities increases from minimal activity to 30 days/year. The numbers and types of activities increase under all QUTR alternatives.

In the Final EIS/OEIS, the Navy defined the overall Preferred Alternative as a combination of preferred alternatives (Keyport Range Site Alternative 1, DBRC Site Alternative 2, and QUTR Site Alternative 2) identified for each of the range sites described above. This comprehensive Preferred Alternative will provide the greatest variety of in-water testing environments at the NAVSEA NUWC Division, Keyport Range Complex to support current and future undersea vehicle development and in-service testing close to NUWC Division, Keyport facilities and Pacific Fleet assets.

**Environmental Impacts:** The Navy's analysis addressed the environmental impacts of implementing the overall Preferred Alternative for each range site in all potentially-affected resource areas. The environmental analysis found that there would be no significant impact on the following resource areas: marine flora and invertebrates, sediments and water quality, cultural resources, recreation, land and shoreline use, public health and safety and environmental hazards to children, socioeconomics and environmental justice, and air quality.

The following discussion in this Record of Decision (ROD) summarizes those impacts considered to be potentially significant, associated with implementation of the Preferred Alternative for each range site. However, in all cases, with implementation of range operating procedures (ROP), management practices and mitigation measures, there would be no significant impact resulting from implementation of the overall Preferred Alternative.

- **Terrestrial Biology.** No significant impact to terrestrial biological resources is expected. As part of the terrestrial biological analysis, the Navy conducted consultation with the U.S. Fish and Wildlife Service (USFWS) in accordance with Section 7 of the Endangered Species Act (ESA) for species under its jurisdiction. In its Biological Opinion (BO) dated March 11, 2010, USFWS stated that the Keyport RDT&E activities are not likely to jeopardize the continued existence of the marbled murrelet. Additionally, no takes under the Bald and Golden Eagle Protection Act of 1940 and no effects on bald eagles are anticipated. The Navy does not expect adverse population-level effects on any migratory bird species.

- **Sea Turtles.** No significant impact or significant harm to sea turtles is expected. Navy entered into consultation with NMFS regarding the potential effects on ESA-listed species from the conduct of the activities outlined in the NUWC Division, Keyport Final EIS/OEIS. NMFS concluded in its BO that the Navy's Proposed Action is not likely to jeopardize the continued existence of the leatherback sea turtle. Due to the rarity of sea turtles as far north as the QUTR action area, the possibility of any interaction with sea turtles is very low. As part of NUWC Division, Keyport's ROP, safety lookouts are maintained on vessels during range activities and are assigned to watch for objects in the water, including sea turtles, so that they can be avoided. Navy lookouts undergo Marine Species Awareness Training (MSAT) to become familiar with species such as sea turtles.
- **Fish and Essential Fish Habitat (EFH).** The Pacific Fishery Management Council (PFMC) manages the fisheries for Groundfish, Coastal Pelagic Species (CPS), and Pacific Salmon through the associated Fisheries Management Plans (FMPs) and has defined EFH for these three groups. Implementation of the overall Preferred Alternative is not expected to adversely affect designated essential fish habitat. As a matter of standard practice, the Navy retrieves expendable materials and avoids and minimizes any loss or discharge of materials incidental to RDT&E and training activities to the extent practicable. No further measures are required to protect EFH during the proposed activities. Although in its EFH assessment the Navy concluded that the Proposed Action would have no adverse effect on EFH, the Northwest Regional Office of NMFS provided two conservation measures to the Navy on April 21, 2010 regarding impacts on eelgrass beds and Habitat Areas of Particular Concern from shore activities and expendables. These conservation measures included: 1) inventory existing eelgrass beds within the action area and avoid conducting project activities that may disturb or remove portions of the eelgrass beds and thus affect their productivity; and 2) recover all expended materials in Habitat Areas of Particular Concern to avoid disturbance of sensitive habitats. In its April 28, 2010 response to NMFS, the Navy declined to undertake inventories or studies, but agreed to use existing information on eelgrass bed locations. The Navy's response to conservation measure two was that to the extent practicable, it already retrieves

expendable materials and believes that no further measure was necessary to protect fish and EFH during the proposed activities.

The Navy entered into consultation with NMFS and USFWS regarding the potential effects on ESA-listed fish species. NMFS concluded in its May 13, 2011 BO that the Navy's activities are not likely to jeopardize the continued existence of Salmonids under NMFS' jurisdiction. NMFS also concluded that the Navy activities are not likely to adversely affect designated critical habitat in the action area. In its Letter of Concurrence and BO dated March 11, 2010, USFWS concluded that the Keyport activities proposed "may affect, and are not likely to adversely affect" bull trout, and are "not likely to destroy or adversely modify" bull trout critical habitat.

- **Marine Mammals.** Marine mammals that potentially occur within the Keyport Range Complex action areas belong to four taxonomic groups: mysticetes, (baleen whales), and odontocetes (toothed whales, porpoises and dolphins), which are collectively known as cetaceans; pinnipeds (seals and sea lions); and mustelids (sea otters). Twenty-four cetacean species, five pinniped species, and 2 mustelid species occur in Washington waters. Of these species, several are present only rarely. NUWC Division, Keyport conducted extensive analysis of the potential effects of underwater sound from RDT&E and related activities on marine mammals. NMFS specified the criteria to be used by the Navy in analyzing the potential effects to marine mammals from the active sonar activities analyzed in the Final EIS/OEIS.

The Final EIS/OEIS concluded that there will be no significant short- or long-term impact or significant harm to marine mammals from implementing the overall Preferred Alternative. Using the criteria specified by NMFS and the application of the Navy's post-modeling analysis, the Navy estimates no mortalities of marine mammals as a result of exposure to the active sonar activities as set forth under the overall Preferred Alternative. The Navy estimates that there would be no potential for injurious effects on marine mammals annually as a result of exposure to active acoustic sources that NMFS would classify as Level A harassment under the MMPA. An estimated 17,024 non-injurious effects that NMFS would classify as Level B harassment under the MMPA

would occur annually as a result of exposure to active sonar activities. Of this total, 2,063 annual exposures represent temporary, non-injurious physiological effects resulting from the onset of temporary threshold shift (TTS), and the remaining 14,961 annual exposures represent temporary, non-injurious behavioral effects. Of the 14,961 exposures, 11,282 are exposures to the harbor porpoise. All takes have been taken into account in the NMFS Final Rule and Letter of Authorization (LOA).

The Final EIS/OEIS also concluded that there will be no significant impacts or significant harm to marine mammals from non-acoustic activities, e.g., testing activities involving UUVs, surface vessels, torpedoes, targets, expendable materials, and other activities.

**Mitigation Measures:** As part of the overall Preferred Alternative, the Navy will implement all mitigation and protective measures identified in the Final EIS/OEIS and in all opinions and Rules issued by the relevant regulatory agencies (see section of this ROD on Agency Consultation and Coordination for further detail). Mitigation measures and protective measures to be implemented will affect Navy activities that involve the following resources:

**Terrestrial Biology Mitigation Measures:** Based on consultation with USFWS and on the March 11, 2010 BO, the Navy will implement mitigation measures to reduce potential impacts to terrestrial biological resources. Mitigation measures include “performance measures” that reduce the potential exposure of marbled murrelets to underwater sound. These measures include seasonal, timing and duration restrictions on countermeasure RDT&E activities conducted at the Keyport and DBRC range sites. USFWS also identified “reasonable and prudent measures” to minimize incidental take of marbled murrelets, and specified terms and conditions that outline reporting/monitoring requirements and implement the reasonable and prudent measures. The reasonable and prudent measures include conducting testing activities at locations and times to minimize exposure of marbled murrelets to sound from countermeasures and assuring that performance measures are met to assure that incidental take is not exceeded. The terms and conditions implementing these reasonable and prudent measures include: conducting long duration countermeasures tests on the Keyport range instead of the DBRC during the summer, where practicable; conducting countermeasure testing activities during the summer rather than the winter, where practicable; submitting an annual report to USFWS that

provides information about countermeasure testing activities occurring on the Keyport Range and DBRC sites; and developing and implementing a method of summarizing countermeasure activities geographically and seasonally, to the extent practicable, and a plan to monitor compliance with the performance measures in coordination with USFWS.

**Marine Mammal Mitigation Measures:** Existing range operating procedures and existing mitigation measures are described in the Final EIS/OEIS. Mitigation measures and monitoring and reporting for marine mammals were established in the NMFS Final Rule (April 12, 2011) and specified in the May 17, 2011 LOA. The Navy will comply with these mitigation, monitoring and reporting requirements and shall submit a report annually by December 1 covering activities through September 1 of the same year.

In general, the mitigation measures, monitoring and reporting requirements include:

- Training personnel to detect and report the presence of marine mammals so that activities can be stopped or altered to prevent conflicts or injuries.
- Conducting visual surveillance just prior to all in-water exercises.
- Establishing an “exclusion zone” and conducting surveillance to ensure that there are no marine mammals within this exclusion zone prior to the commencement of each in-water exercise.
- Ensuring that range craft do not approach within 100 yards (91 m) of marine mammals, to the extent practicable considering human and vessel safety priorities.
- Notifying the Navy chain of command and NMFS in the event of a collision between a Navy vessel and a marine mammal.
- Implementing passive acoustic monitoring during RDT&E testing activities involving active sonar transmissions when passive acoustic monitoring capabilities are being operated during the testing activity.
- Promulgating procedures for reporting marine mammal sightings and entering sighting data into the Range Operating System and forwarding information to the National Oceanic and Atmospheric Administration (NOAA) Platforms of Opportunity Program.

- Conducting passive acoustic monitoring within the Agate Pass and south of University Point in southern Port Orchard Reach for nighttime RDT&E activities of active acoustic transmissions, notifying the Range Office if Southern Resident killer whales are detected in the vicinity of the Keyport Range Site, and shutting down active acoustic sources if killer whales are confirmed to approach at 1,000 yards (914 m) from the source.
- The Keyport Range Complex Monitoring Plan consists of a minimum of 2 special visual surveys per year to monitor High Frequency Active Sonar (HFAS) and Mid-Frequency Active Sonar (MFAS) respectively at the DBRC Range site.

**Agency Consultation and Coordination:** NMFS was a cooperating agency throughout the EIS/OEIS process. The Navy requested NMFS to participate in the NEPA process because of its special expertise and permitting jurisdiction over marine species potentially impacted by the Proposed Action. The Navy also consulted with USFWS and OCNMS. The Navy solicited comments from the Washington Department of Ecology (WDOE) concerning the Proposed Action's consistency with the state's Coastal Zone Management Program. The Navy consulted with the State Historic Preservation Office and Native American Indian Tribes and Nations with respect to historic properties and cultural resources. In addition, the Navy complied with the requirements of the Magnuson-Stevens Fishery Conservation and Management Act and the National Marine Sanctuaries Act. A summary of the results from each consultation and coordination process is included below:

- **Marine Mammal Protection Act.** In support of the Proposed Action, in March 2008 the Navy applied for an authorization pursuant to Section 101(a)(5)(a) of the MMPA. After the application was reviewed by NMFS, a Notice of Receipt of Application was published in the *Federal Register* on July 3, 2008 (73 Fed. Reg. 38183). Publication of the Notice of Receipt of Application initiated the 30-day public comment period. NMFS developed regulations governing the issuance of an LOA and published a Proposed Rule in the *Federal Register* on July 7, 2009 (74 Fed. Reg. 32264). Publication of the Proposed Rule initiated another 30-day public comment period, which ended on August 6, 2009. The Final Rule (50 CFR Part 218, Subpart R) became effective on April 12, 2011.

- **Endangered Species Act.**

**1. NMFS:** The Navy entered into formal consultation with NMFS as part of the required demonstration of compliance with ESA once the Navy concluded proposed actions reached the ‘may affect’ level of impact. In accordance with Section 7 of the ESA (50 CFR § 402.11), NMFS, in the May 13, 2011 BO, concluded that the effects of the RDT&E activities the Navy plans to conduct on the Keyport Range Complex are not likely to jeopardize the continued existence of these threatened and endangered species under NMFS jurisdiction. NMFS reached this conclusion after reviewing the current status of blue whales, fin whales, humpback whales, sei whales, sperm whales, southern resident killer whales, Steller sea lion (eastern population), leatherback sea turtles, southern green sturgeon, Pacific eulachon, lower Columbia River Chinook salmon, Puget Sound Chinook salmon, Columbia River chum salmon, Hood Canal chum salmon, lower Columbia River coho salmon, Ozette Lake sockeye salmon, lower Columbia River steelhead, and Puget Sound steelhead, as well as the environmental baseline for the action area. The opinion also concluded that RDT&E activities the U.S. Navy plans to conduct on the Keyport Range Complex are not likely to adversely affect critical habitat that has been designated for endangered or threatened species in the action area. Therefore, the proposed action is not likely to result in the destruction or adverse modification of that habitat.

**2. USFWS:** The Navy conducted consultation in accordance with Section 7 of the ESA with USFWS for species under its jurisdiction. USFWS issued a BO and Incidental Take Statement on March 11, 2010. USFWS concluded that the Navy’s Proposed Action “may affect, but is not likely to adversely affect” bull trout, “is not likely to destroy or adversely modify” bull trout critical habitat, and “is not likely to jeopardize the continued existence” of the marbled murrelet.

- **Magnuson-Stevens Fishery Conservation and Management Act.** Although the Navy determined there would be no adverse effects on EFH because potential impacts on EFH

would be temporary and/or minimal and would not reduce the quality and/or quantity of EFH in the Study Area, NMFS initiated EFH consultation by letter received April 21, 2010. Navy responded on April 28, 2010, as is described above. A copy of this letter can be found in Appendix H of the Final EIS/OEIS.

- **Coastal Zone Management Act:** In accordance with the Coastal Zone Management Act (CZMA), the Navy reviewed the enforceable policies of Washington State's Coastal Zone Management Program, which were established in 1976. The WDOE's Shorelands and Environmental Assistance Program is responsible for implementing the coastal zone program. Pursuant to the CZMA, federal agency activities that affect a coastal use or resource are required to be consistent with the Washington State Shoreline Management Act (SMA) and the CZMA to the maximum extent practicable. The Proposed Action alternatives at each of the three range sites involve Navy activities within 0 to 3 nm (0 to 5.6 km) from shore. Therefore, as part of the Proposed Action, and as required by the federal implementing regulations, the Navy prepared a Coastal Consistency Determination (CCD) and submitted it to the WDOE on September 5, 2008 for new activities that would occur on the shoreline or in-water. The WDOE concurred with the CCD in a letter dated September 30, 2008.
- **National Historic Preservation Act:** The Navy consulted with the state of Washington Historic Preservation Officer (SHPO) regarding the Navy's determination that no historic properties are affected by the overall Preferred Alternative. The Navy obtained written concurrence from the State of Washington's Department of Archaeology and Historic Preservation, (which is the SHPO) on March 18, 2009. A copy of this letter can be found in Appendix H of the Final EIS/OEIS. Native American Indian Tribes and Nations were also consulted and they concurred with the Navy's determination; see Appendix H of the Final EIS/OEIS.
- **National Marine Sanctuaries Act:** The Navy engaged in National Marine Sanctuaries Act (NMSA) Section 304(d) consultation with OCNMS via a letter from NUWC Division, Keyport, received by OCNMS on November 24, 2010. OCNMS sent a letter dated January 27, 2011 to NUWC Division, Keyport describing reasonable and prudent

alternatives (RPAs) in accordance with NMSA Section 304(d). These RPAs included: 1) developing a written analysis of the viability of locating temporary installations that impact the seafloor outside the OCNMS while achieving the Navy's testing objectives; 2) seeking advice from OCNMS about seafloor habitat to avoid or minimize impacts to sanctuary resources and conducting habitat characterization/mapping work if seafloor habitat data does not exist; 3) using biodegradable components for military expendable materials to the extent they are available; 4) retrieving/recovering non-biodegradable components and expendables to the maximum extent practicable; 5) providing an annual report to the OCNMS Superintendent regarding locations, types, and amounts of military expendable materials released and retrieved/recovered; 6) working with OCNMS to review the scope of the Navy's activities and address impacts based on the annual report and written analysis; and 7) notifying OCNMS if a marine mammal is injured or killed as a result of Navy testing activities conducted within the OCNMS and giving OCNMS an opportunity to be represented at the Navy's proposed monitoring workshop. Pursuant to 16 U.S.C. § 1434(d)(3), the Navy provided a written response to OCNMS's reasonable and prudent alternatives in a letter dated March 2, 2011. In summary, the Navy stated that its Final EIS already satisfies RPA 1 and therefore, no further written analysis is necessary. Regarding RPA 2, although the Navy will consider available, existing seafloor habitat data when deploying moored installations, and will consider avoiding deep sea coral, sponge habitats, and maritime heritage resources as practicable, it will not seek advice from OCNMS regarding the deployment of temporary mooring installations, nor conduct habitat characterization/mapping work. The best available science indicates that even if sensitive resources occur in the vicinity, these Navy activities will have no negative impacts on them. In addition, the Navy will consider RPA 3, and noted that Keyport testing activities already satisfy RPA 4 as a matter of standard practice to the extent practicable. Regarding RPAs 5 and 7, the Navy agreed to provide the annual report it is required to submit to NMFS under 50 C.F.R. § 216.38 to the OCNMS Superintendent, and directed OCNMS to NOAA Headquarters for coordinating attendees to the Navy's monitoring workshop. Finally, regarding RPA 6, the Navy will consider new data regarding the natural and cultural resources within the Sanctuary provided by OCNMS when submitted.

**Responses to Comments Received on the FEIS:** The Notice of Availability of the Final EIS/OEIS was published in the *Federal Register* on May 21, 2010 (75 Fed. Reg. 28612).

Notification of the availability of the Final EIS/OEIS was also made through various newspapers and media outlets, and specifically to interested individuals, agencies, and associations, as well as elected and other public officials. The Final EIS/OEIS was distributed to those individuals, agencies, and associations who requested copies during the public comment periods, as well as members of Congress, local officials, and Native American Tribes and Nations. Additionally, the Final EIS/OEIS was made available for general review at thirteen public libraries and on the project website. Release of the Final EIS/OEIS was accompanied by a 30-day wait period. The Navy received only two comments during the wait period following the issuance of the Notice of Availability of the Final EIS/OEIS. The Navy received comments from a private citizen and from the Environmental Protection Agency (EPA) on the Final EIS. The private citizen wrote a letter expressing his support for the Proposed Action and approval of the EIS. The EPA also wrote a letter and stated that it appreciated the Navy's assurances that there would be minimal disturbance to benthic sites and no interference with ecosystems. The EPA further stated that it appreciated that the Navy considered and addressed comments from other agencies and the public in the Final EIS.

**DECISION:** After considering the environmental impacts analyzed in the Final EIS/OEIS, comments from regulatory agencies, Native American Indian Tribes and Nations, as well as those received from members of the general public, mitigation, and other factors discussed in this ROD, I elect to implement the overall Preferred Alternative (Keyport Range Site Alternative 1, DBRC Site Alternative 2, and QUTR Site Alternative 2). There are no adverse environmental impacts associated with implementing the overall Preferred Alternative (Keyport Range Site Alternative 1, DBRC Site Alternative 2, and QUTR Site Alternative 2) that cannot be appropriately addressed or mitigated.

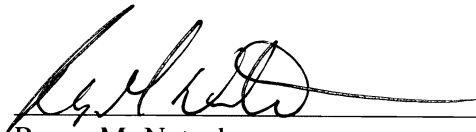
**CONCLUSION:** The overall Preferred Alternative (Keyport Range Site Alternative 1, DBRC Site Alternative 2, and QUTR Site Alternative 2) is the alternative that will fully meet Navy and Department of Defense current and near-term RDT&E and training requirements in the

NAVSEA NUWC Division, Keyport Range Complex while also implementing the mitigation and management measures needed to protect the environment. The overall Preferred Alternative fully meets the purpose of and need for the Proposed Action by providing NUWC Division, Keyport the ability to maximize operational capability and enhance its RDT&E capacity by extending the boundaries of the range sites associated with the NAVSEA NUWC Division, Keyport Range Complex and increasing the number of days and activities that will occur. The overall Preferred Alternative will provide NUWC Division, Keyport with the variety of underwater test environments necessary to support future undersea vehicle development and in-service testing close to NUWC Division, Keyport and Pacific Fleet assets. With implementation of the mitigation measures identified in the Final EIS/OEIS and associated regulatory documents developed in consultations with NMFS, OCNMS, and USFWS, and adherence to management plans and monitoring requirements described herein, there will be no significant adverse environmental impacts associated with implementing the overall Preferred Alternative.

In summary, the capability to conduct enhanced RDT&E and training activities in the NAVSEA NUWC Division, Keyport Range Complex best serves the interests of the Navy and the nation, and can be accomplished in a manner that keeps environmental impacts at a less than significant level.

Date

7/7/11



Roger M. Natsuhara  
Principal Deputy Assistant Secretary of the Navy  
(Energy, Installations and Environment)